

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00715R

Parcel No. 060/00713-225-012

Dennis Stotts,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on April 20, 2016. Dennis Stotts was self-represented. Assistant County Attorney Mark Taylor represented the Polk County Board of Review.

Stotts is the owner of a one-story residential dwelling located at 3604 Village Run Drive, Des Moines, Iowa. The subject property has 1774 square feet of living area; a full, walkout basement with 1250 square-feet of living quarters finish; and a 728 square-foot attached garage constructed in 2005. The property is also improved by an open porch, deck, and patio. The dwelling is listed in normal condition and with high quality construction (Grade 2-10). The site is 0.291-acres.

The property's January 1, 2015, assessment was \$287,300, allocated as \$43,800 in land value and \$243,500 to improvement value. Stotts' protest to the Board of Review claimed the property is not equitably assessed as compared to like properties; that the property is not assessable, is exempt from taxes, or is misclassified; that there is an error in the assessment; and that there has been a change in value since the last assessment under Iowa Code sections 441.37(1)(a)(1)(a, c, & d) and 441.37(1)(a)(2). Stotts' claim of error simply describes the two comparable properties he provided in his equity claim. His "not assessable" claim appears to have been an

imprecise way of stating that his property's value is reduced or partly negligible because of a ditch in his backyard that limits access to the rear quarter of his property. In a reassessment year, a downward change claim is treated as an over-assessment claim. *Dedham Co-op. Ass'n v. Carroll Cnty. Bd. of Review*, 723 N.W. 2d 449, 2006 WL 1750300 (Iowa App. Ct. 2006). Accordingly, we will address his equity and over-assessment claims.

The Board of Review granted the protest and reduced the assessment to \$279,300. Stotts then appealed to PAAB. He believes the subject property's correct assessment is \$257,000.

Findings of Fact

Stotts identified two equity comparables. The first, 3610 Village Run Drive, is located next to the subject. The other, 3510 Village Run Drive, is located three houses down from the subject. Stotts reports it has been listed for sale without success for \$264,000. The Board of Review Appraiser identified four additional equity comparables. (Exs. H, I, & J). The chart below includes Stotts' and the Appraiser's comparables combined.

Address	Grade	TSFLA	Year Blt	Base Fin	2015 AV	AV PSF
Subject	2-10	1774	2005	1250	\$279,300	\$157.44
3510 Village Run	3+10	1748	2003	1100	\$261,900	\$149.83
3610 Village Run	3+10	1670	2002	1450	\$251,100	\$150.36
3702 Village Run	3+10	1599	2003	1200	\$251,100	\$157.04
3502 Village Run	2-05	1624	2003	800	\$264,300	\$162.75
3600 Village Run	2-05	1726	2005	1200	\$285,900	\$165.64
3605 Village Run	3+00	1320	2005	0	\$155,100	\$117.50

The properties located at 3502 and 3600 Village Run have construction grades similar to Stotts' high quality grade. The other properties have inferior construction quality as compared to Stotts' dwelling. The higher graded properties are also valued similar to the subject on a per-square-foot basis. Stotts did not provide any evidence of his property's fair market value and none of the identified properties are recent sales. Accordingly, an assessment/sales ratio could not be developed for equity analysis.

Stotts also identified 3610 Village Run as a sales comparable. (Exs. 3 & 4). He reports it has more living area than his property, two kitchens, and more amenities. He testified it sold in August 2013 for \$242,000, or \$144.91 per square foot, after four years on the market. (Ex. F). Its 2015 assessment was \$275,100 before the Board of Review lowered it to \$251,100. We note it is a lower construction quality grade than Stotts' property, making it inferior to his dwelling.

The Board of Review Appraiser identified five additional sales comparables. (Exs. K, I, & L). The chart below summarizes the sales.

Address	Grade	TSFLA	Yr Blt	Bas Fin	AV	AV/SF	Sale Date	Sale Price
Subject	2-10	1774	2005	1250	\$279,300	\$157.44	N/A	N/A
4947 Stream Side	2-05	1529	2005	950	\$241,600	\$158.01	14-Dec	\$ 200,000
4931 Stream Side	2-05	1535	2004	785	\$233,200	\$151.92	14-Aug	\$ 249,900
5155 Pond View	3+10	1640	2006	1400	\$255,300	\$155.67	14-Oct	\$ 246,000
5000 Stream Side	3+05	1674	2005	1300	\$256,700	\$153.34	14-Jul	\$ 261,500
3610 Village Run	3+10	1670	2004	1450	\$275,100	\$164.73	Aug-13	\$ 242,000

After adjustments to account for differences between these properties and the subject, the adjusted sale prices ranged from \$236,900 to \$297,700 with a median of \$273,100. On a per-square-foot basis, the range is \$147.84 to \$193.94 with a median of \$166.52 per-square foot. Stotts' assessment is within the range of adjusted values and below the median on a per-square-foot basis.

Stotts testified that he is unable to use the rear portion of his backyard because of a 25-foot deep ditch, timber, and a creek cutting off access. Although described as beautiful when the leaves are on the trees, he believes the steep slope and creek present safety hazards to young children. Stotts also claims the street is sinking and the presence of an abandoned house across the street (Ex. 7) is evidence the whole area is declining.

In addition, Stotts reported the property directly behind his, 3607 Park Side Drive, had its assessment reduced. The record shows that 3607 Park Side Drive's 2015 assessment was reduced from \$317,300 to \$299,800 by the Board of Review. The property subsequently sold in September 2015 for \$307,000.

The Board of Review Appraiser Henderson reported that market comparables supported a reduction in the assessment. This was accomplished by changing the construction quality grade to 2-10. (Ex. 2). While Stotts complained that 25% of his rear land is not assessable, Henderson commented in his analysis that actually timber typically has a positive impact on market value.

Amy Rasmussen, Director of Litigation for the Assessor's Office, testified on behalf of the Board of Review. In her opinion, the timber and creek section of the rear land has value. She reported that none of the neighbors with similar backyards have any adjustment to their assessments for timber or a creek.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). In this case, Stotts did not shift the burden, and therefore, must prove the assessment is inequitable based upon a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal

transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or must be adjusted to eliminate the effect of factors, which distort market value. *Id.*

Stotts claims the subject's assessment is not equitable as compared to other like property in the taxing district. § 441.37(1)(a)(1)(a). To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Stotts did not allege the Assessor failed to uniformly apply assessment methodology to like properties.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Stotts identified two equity comparables and the Board of Review identified four additional properties. None were recent sales and Stotts did not offer evidence of the subject's fair market value, such as an appraisal, market analysis, or adjusted sales comparables. As such, an assessment/sales ratio could not be developed for equity

analysis. Accordingly, we find that Stotts has not shown his property is inequitably assessed under either test.

Stotts also asserts the subject property is over-assessed. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Stotts believes that the rear portion of his property is rendered valueless because of the ditch and the accompanying accessibility issues. While it might be true that the market value of his property is impacted by the ditch, we do not believe it makes that portion of the property completely valueless. Further, there was no evidence to show what impact, if any, that the accessibility issue has on his property's market value.

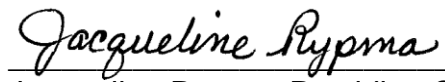
Stotts identified one sale to support his over-assessment claim. This property had inferior construction quality as compared to Stotts' property. When comparing his assessment to the Board of Review's comparable sales, Stotts' assessment is within the value range and below the median value per-square-foot of the comparable properties. Accordingly, we conclude that he has not shown the property to be over-assessed.

Order

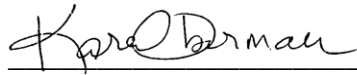
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

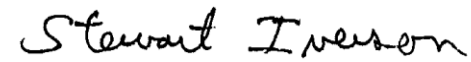
Dated this 12 day of May, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Dennis Stotts

Mark Taylor